

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRM No.M-15069 of 2016
Decided on: 14.02.2018**

Amar Palta and another

....Petitioners

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. H.S. Brar, Advocate for the petitioners.

Ms. Samina Dhir, DAG, Punjab.

Mr. Jaiteshwar Singh, Advocate
for respondents No.2 and 3.

ARVIND SINGH SANGWAN, J. (Oral)

The petitioners have prayed for quashing of FIR No.11 dated 25.01.2015, for offence punishable under Sections 307 read with Section 34 of the Indian Penal Code (in short 'IPC') and 25/27/54/59 of the Arms Act registered at Police Station Kot Isah Khan, District Moga, on the basis of the compromise effected between the parties.

In pursuance to the order dated 06.05.2016, the parties have appeared before the trial Court and their statements have been recorded before the trial Court.

The complainant – Jaswant Singh and the injured – Bhagwant Singh @ Mohantu have deposed before the trial Court that they have compromised the matter with the accused persons and are left with no grudges against them and have no objection if the FIR is quashed.

The trial Court has, vide its report dated 09.06.2016, reported that none of the accused was ever declared as proclaimed offender and only two persons were nominated as accused in the FIR. It is also reported that the both the parties out of their free will and consent have compromised the matter and have resolved the dispute. It is also reported that the compromise effected between the parties is voluntarily without any coercion and influence and the same is genuine.

Counsel for the petitioners have submitted that even as per the allegation in the FIR, the offence under Section 307 IPC is not made out against the petitioners as it is not stated that the fire arm was used with intention to kill the injured persons. Counsel for the petitioners has further submitted that there is no opinion from the doctor who conducted the MLR that the injuries sustained by the complainant were ever declared as dangerous to life.

Counsel for the State, on instructions from ASI Mukhinder Singh and on the basis of the MLR has also stated that there is no opinion of the doctor that the injuries sustained by the complainant – Jaswant Singh are dangerous to life and it is, thus, submitted that offence under Section 307 IPC is not made out.

Counsel for the complainant, on the other hand, has also not disputed that there is a legal and valid compromise arrived at between the parties.

Counsel for the petitioners, at this stage, has relied upon the judgment “Yogendra Yadav and others vs State of Jharkhand and another”, 2014(3) RCR (Crimianl) 869, wherein the Hon'ble Supreme Court in para 4 has held as under:-

*“4. Now, the question before this Court is whether this Court can compound the offences under Sections 326 and 307 of the IPC which are non-compoundable. Needless to say that offences which are non-compoundable cannot be compounded by the court. Courts draw the power of compounding offences from Section 320 of the Code. The said provision has to be strictly followed (**Gian Singh v. State of Punjab, 2012(4) R.C.R.(Criminal) 543 : 2012(4) Recent Apex Judgments (R.A.J.) 549 : (2012)10 SCC 303**). However, in a given case, the High Court can quash a criminal proceeding in exercise of its power under Section 482 of the Code having regard to the fact that the parties have amicably settled their disputes and the victim has no objection, even though the offences are non-compoundable. In which cases the High Court can exercise its discretion to quash the proceedings will depend on facts and circumstances of each case. Offences which involve moral turpitude, grave offences like rape, murder etc. cannot be effaced by quashing the proceedings because that will have harmful effect on the society. Such offences cannot be said to be restricted to two individuals or two groups. If such offences are quashed, it may send wrong signal to the society. However, when the High Court is convinced that the offences are entirely personal in nature and, therefore, do not affect public peace or tranquillity and where it feels that quashing of such proceedings on account of compromise would bring about peace and would secure ends of justice, it should not hesitate to quash them. In such cases, the prosecution becomes a lame prosecution. Pursuing such a lame prosecution would be waste of time and energy. That will also unsettle the compromise and obstruct restoration of peace.”*

Counsel for the petitioners has further relied upon the

judgment ***“Dimpey Gujraj W/o Vivek Gujraj and others vs Union Territory through Administrator, U.T. Chandigarh and others”***, 2013(1) RCR (Criminal) 745 wherein the Hon'ble Supreme Court has held that in view of the judgment ***“Gian Singh vs State of Punjab and another”*** 2012(4) RCR (Criminal) 543, even the offence under Section 307 IPC can be compounded in view of the fact that the parties have decided to bury their dispute and to live in peace in harmony and, therefore, continuation of criminal proceedings will tantamounts to abuse and misuse of process of law.

I have heard counsel for the parties and perused the case file.

As per the Full Bench judgment of this Court in ***“Kulwinder Singh and others vs State of Punjab”***, 2007 (3) RCR (Criminal) 1052, it is held that High Court has power under Section 482 Cr.P.C. to allow the compounding of non-compoundable offence and quash the prosecution where the High Court feel that the same was required to prevent the abuse of the process of law or otherwise to secure the ends of justice. This power of quashing is not confined to matrimonial disputes alone.

Hon'ble the Apex Court in the case of ***“Gian Singh's case (supra)”***, has held as under:-

“57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code.

Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and predominatingly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and

prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

Since the parties have arrived at a compromise and have decided to live in peace, no useful purpose would be served in allowing the criminal proceedings to continue.

In view of what has been discussed hereinabove, the petition is allowed and FIR No.11 dated 25.01.2015, for offence punishable under Sections 307 read with Section 34 IPC and 25/27/54/59 of the Arms Act registered at Police Station Kot Isah Khan, District Moga and proceedings emanating therefrom are ordered to be quashed, *qua* the petitioners.

(ARVIND SINGH SANGWAN)
JUDGE

14.02.2018
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Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No